

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

ARREST ON OUT-OF-DISTRICT OFFENSE

CASE NUMBER:

19MJ2891

The person charged as Cristobal FRANCISCO-NICOLAS<sup>AL</sup> now appears before this United States District Court for an initial appearance as a result of the following charges having been filed in the United States District Court for the Northern District of Iowa:

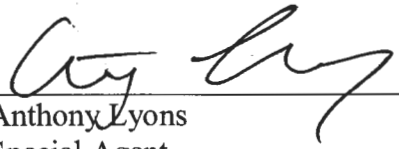
Bringing In and Harboring Certain Aliens, in violations of: 8 U.S.C. § 1324(a)(1)(C)(2)

The charging documents and warrant for the arrest of the defendant which was issued by the above United States District Court are attached hereto.

I hereby swear under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

DATED:

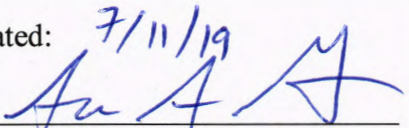
7/11/19

  
Anthony Lyons  
Special Agent  
Homeland Security Investigations

Reviewed and Approved

Dated:

7/11/19

  
Assistant United States Attorney

## UNITED STATES DISTRICT COURT

for the

Northern District of Iowa

United States of America  
v.  
Cristobal Francisco-Nicolas

Case No. 19-mj-232

\_\_\_\_\_  
*Defendant*

## ARREST WARRANT

To: Any authorized law enforcement officer

**YOU ARE COMMANDED** to arrest and bring before a United States magistrate judge without unnecessary delay  
(name of person to be arrested) Cristobal Francisco-Nicolas,  
who is accused of an offense or violation based on the following document filed with the court:

☐ Indictment    ☐ Superseding Indictment    ☐ Information    ☐ Superseding Information    ☒ Complaint  
☐ Probation Violation Petition    ☐ Supervised Release Violation Petition    ☐ Violation Notice    ☐ Order of the Court

This offense is briefly described as follows:

Bringing in and Harboring Certain Aliens in violation of 8 USC 1324(a)(1)(C)(2)

Date: 6/28/2019

Kelly Mahoney  
Issuing officer's signature

City and state: Sioux City, IA

Chief Judge Kelly Mahoney  
Printed name and title

## Return

This warrant was received on (date) \_\_\_\_\_, and the person was arrested on (date) \_\_\_\_\_  
at (city and state) \_\_\_\_\_.

Date: \_\_\_\_\_

Arresting officer's signature

Printed name and title

AO 91 (Rev. 11/11) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the

Northern District of Iowa

United States of America

v.

Cristobal Francisco-Nicolas, and Amy Francisco

Defendant(s)

Case No.

19-mj-232

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 05-28-2019 and 06-19-2019 in the county of Woodbury in the  
Northern District of Iowa, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
8 USC 1324(a)(1)(C)(2)	Bringing in and Harboring Certain Aliens

This criminal complaint is based on these facts:

See attached affidavit

☒ Continued on the attached sheet.

*Complainant's signature*

Special Agent John Voeltz, HSI

*Printed name and title*

Sworn to before me and signed in my presence.

Date: 6/28/2019

*Judge's signature*City and state: Sioux City, Iowa

Kelly K.E. Mahoney, U.S. Magistrate Judge

*Printed name and title*

# AFFIDAVIT

STATE OF IOWA )  
 ) ss.  
COUNTY OF WOODBURY )

I, John Voeltz, being first duly sworn, hereby depose and state as follows:

## INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of criminal complaint alleging a violation of 8 U.S.C. Section 1324(a)(1)(C)(2) by Cristobal Francisco-Nicolas and Amy Francisco.

2. The information set forth in this affidavit is based on information obtained from reports, interviews, documents, and records obtained from the SCPD, reports, interviews, documents, and records obtained from Homeland Security Investigations (HSI), my own investigation of this matter, my knowledge, training and experience, my own observations, information received from other law enforcement officers and/or witnesses, direct examination of relevant documents and/or Internet websites, and/or interviews with persons named in this affidavit. Since this affidavit is being submitted for the limited purpose of securing a complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that Cristobal Francisco-Nicolas and Amy Francisco violated 8 U.S.C. Section 1324(a)(1)(C)(2).

3. I am a Special Agent with Homeland Security Investigations (HSI) under the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), and have been since June 2010. I previously served as a U.S. Postal Inspector in Saint Louis, Missouri, as a police officer for the Naperville Police Department, Naperville, Illinois, and as a police officer for the Elk Point Police

Department, Elk Point, South Dakota. I currently have over 19 years of combined law enforcement experience. I am responsible for investigating and enforcing violations of Immigration and Customs laws of the United States and other federal statutes. As part of my duties as a Special Agent with HSI, I investigate criminal violations relating to alien smuggling, human trafficking, child exploitation, contraband smuggling, document fraud, and assist other federal, state, and local law enforcement agencies and prosecutors with investigations when requested. I obtained my training and experience regarding alien smuggling from the ICE Special Agent Training Course in November 2010, from information and conversations with HSI agents who have experience with alien smuggling investigations, and from my own personal experience gathered from investigating these crimes.

#### **ALIEN SMUGGLING**

4. Based on my training and experience, information I have read on the topic, and information I obtained from conversations with other law enforcement agents regarding alien smuggling. I have learned that undocumented aliens (UDA's) choose to enter other countries illegally for many reasons, such as religion, politics, employment, and/or education. In some cases, a UDA will enter into an agreement with a smuggler to illegally enter the United States. The smuggler will in turn determine a set fee depending on the method or route used by the smuggling organization or the individual. Smuggling organizations vary by the nationality of aliens smuggled, size of organization, levels of hierarchy, and sophistication of their method of operation. Smuggling organizations operate by establishing a network that facilitates the undetected movement of UDAs from source countries through transit countries with the



ultimate goal of successfully entering the United States in violation of U.S. law.

Smuggling organizations are ever-changing in their level of sophistication and have become increasingly violent by engaging in kidnapping, extortion, assault, and rape.

5. Smuggling organizations can vary in the number of co-conspirators, operating structure, financial structure, areas of operation, and nationality of the aliens the organization smuggles. Smuggling operations can be as small as an individual operating independently or as large as an organization. The individual or organization provides a guide, transportation, and temporary housing for aliens at points along the journey and/or once they arrive in the United States. Larger smuggling organizations typically have a head of the organization for the oversight, recruiters who are responsible for identifying aliens seeking to be smuggled into the U.S., Guides aka Coyotes responsible for leading UDAs across the border, Transporter aka drivers who transports aliens to drop houses, Facilitators who are often U.S. citizens or lawful permanent residents who assistance for UDA's can include providing phones, false documents for employment, arranging housing and transportation and can also perform the role of collecting smuggling fee's using various money service businesses.

#### **PROBABLE CAUSE**

6. On June 5, 2019, the Sioux City Police Department (SCPD) received a 911 call of a minor female wandering the streets claiming she had been sexually assaulted. SCPD Officers responded and identified a minor Guatemalan female (ABF).

10. On June 13, 2019, SCPD arranged to have ABF interviewed at the Sioux City Children's Advocacy Center with a child forensic interviewer and an appropriate interpreter available telephonically.

11. The forensic interview was audio and video recorded. ABF stated her mother died when she was approximately three or four years old and that she lived with her aunt in Guatemala. ABF is a citizen of the Republic of Guatemala. A few weeks prior to their arrival in the U.S., her "father," identified as Fernando BARTOLO Francisco (Fernando) appeared and wanted to take her to the U.S. Her father is a citizen of the Republic of Guatemala. ABF stated she did not want to go and that the aunt tried to help her stay, but Fernando insisted they travel to the U.S.

12. ABF and Fernando travelled from Guatemala to the U.S. border. On May 29, 2019, ABF and Fernando crossed the international U.S./Mexico border by walking across the Rio Grande River approximately .18 miles west of the Paso Del Norte Port of Entry in El Paso, Texas, and were subsequently arrested by US Border Patrol Agents. ABF and Fernando were fingerprinted and remained in Border Patrol custody together. On May 30, 2019, due to a lack of space at the El Paso Detention Center, ABF and Fernando were released from custody on an Order of Recognizance and Supervision (OREC/OSUP). Upon release, ABF indicated they flew to Omaha, Nebraska. Once they arrived in Omaha, "Francisco" (later identified as Cristobal Francisco-Nicolas) and "Sofia" (later identified as Amy Francisco) picked up ABF and Fernando, and drove them to an unidentified house in Sioux City, Woodbury County, Iowa. Cristobal Francisco-Nicolas (Cristobal) is married to Amy Francisco (Amy).

13. ABF stated when they arrived in Sioux City, her father left her at a house with Cristobal and Amy. ABF indicated Cristobal and Amy locked her in a room with a metal bed and a bucket for bodily waste. ABF then stated Cristobal raped her and that Amy watched it happen from the door to the locked room.

14. After being raped five times, ABF stated that one morning Cristobal left for work and did not lock the door. Amy was sleeping, so ABF ran out of the house looking for someone who spoke Spanish to help her. This is when SCPD encountered her.

15. SCPD requested assistance from HSI Sioux City who obtained U.S. Customs and Border Protection (CBP) information from the Border Patrol Arrest of ABF and her father. As part of the conditions of their release, ABF and Fernando were to report to Enforcement and Removal Officials (ERO) in Sioux City, Iowa on June 12, 2019. ABF and Fernando provided U.S. Border Patrol Agents with a U.S. point of contact listed as Sofia Francisco Bartolo of 2014 Virginia St., Sioux City, IA, with a telephone number (712) 522-0065, (hereinafter referred to as "SMUGGLER PHONE#1") as part of their release packet.

16. On June 18, 2019, HSI and SCPD went to 2014 Virginia Street in Sioux City, and determined it to be unrelated to the investigation. HSI and SCPD then placed a telephonic call to "SMUGGLER PHONE#1" and spoke with Fernando. Amy interpreted for Fernando during the telephonic call with law enforcement.

17. On June 19, 2019, Amy and Fernando agreed to come to the HSI Sioux City office for a meeting and Cristobal drove the three of them to the office. HSI Sioux City and SCPD fully identified the three, who agreed to be interviewed at SCPD. They were identified as Amy Francisco (Amy), Cristobal Francisco-Nicolas (Cristobal), and Fernando Bartolo-Francisco (Fernando). Cristobal and Amy voluntarily drove their own vehicle to the SCPD. Fernando voluntarily agreed to be transported by HSI.

18. On June 19, 2019, a consensual and non-custodial interview with Cristobal was conducted at the SCPD. This interview was audio/video recorded.



Cristobal was read Miranda rights and signed a waiver agreeing to freely answer questions. Cristobal stated he was married to Amy Francisco and resided at 3628 Hamilton Blvd., Sioux City, IA. Cristobal stated his birthdate is September 09, 1981 and his cell phone number is (712) 203-8853 (hereinafter, "CRISTOBAL's PHONE"). Cristobal stated his sister in Guatemala told him about Fernando and ABF wanting to come to the U.S. Cristobal stated his sister then stepped out of the picture and ABF called him on the phone. Cristobal stated he made all the arrangements to get Fernando and ABF to the U.S. including sending money to someone in Guatemala through one of the stores (stores referring to a money transfer service location). Cristobal stated he and Amy picked up Fernando and ABF at the airport in Omaha. Cristobal stated they drove from the airport to Natalia's Bakery in Sioux City and then he and Amy took Fernando and ABF to his house. Cristobal stated he knows he messed up and the mistake he made was receiving these people. Cristobal requested an attorney when law enforcement began to question him about the alleged rape of ABF. Law enforcement ceased any further questioning of Cristobal.

19. On June 19, 2019, a consensual and non-custodial interview with Amy was conducted at the SCPD. This interview was audio/video recorded. Amy stated that a lady named Sofia contacted her and asked if she could assist her at the Greyhound Bus Station in Sioux City, IA to purchase bus tickets for her relatives. Amy stated she helps people out interpreting. Amy stated the bus tickets were sold out and Sofia didn't have a credit card so, Sofia asked if Amy would purchase airline tickets for her relatives. Amy stated Sofia gave her cash which she deposited to her bank account and then purchased the airline tickets with her credit card. Sofia asked Amy to pick up her

relatives at the Omaha airport since Sofia claimed she did not know how to get there. Amy stated that she and Cristobal drove in her purple Honda to pick up Sofia's relatives (ABF and Fernando) from the airport. Amy then stated they drove and dropped off ABF and Fernando at Natalia's Bakery in Sioux City where Sofia was waiting for them. Amy stated she later received a phone call from Fernando stating that the lady left them at Natalia's Bakery and they didn't know where to go. Amy stated that she and Cristobal went to pick them up and let them stay at their house. Amy stated that on June 4, 2019, she and Cristobal went to sleep and when she awoke the next day, ABF was no longer at their residence and no one knew where she was. During this interview, SCPD conducted a show-up, and ABF identified Amy as Sofia. Subsequent to this, SCPD attempted to Mirandize Amy, at which time she requested an attorney and all questioning ceased.

20. On June 19, 2019 a consensual and non-custodial interview with Fernando was conducted at the SCPD. This interview was audio/video recorded. Fernando was read Miranda rights and verbally agreed to continue with questioning. Fernando claimed he was unable to read and write. Fernando originally stated that he and ABF were communicating with a woman named Sofia to make the arrangements for them to come to the U.S. Fernando later confirmed that Sofia is actually Amy, and that Amy was the one who purchased the airline tickets, picked him and ABF up from the airport in Omaha (along with Cristobal), took them to eat, and then to their residence. At some point after Fernando and ABF arrived in Sioux City, Amy and Cristobal provided them with a cell phone ("SMUGGLER PHONE#1"). Fernando was very adamant that ABF is his daughter, and that he has been staying at Amy's house

since his arrival. Fernando stated that Amy paid the smuggler in Guatemala since he didn't have any money, and he hasn't paid any money to anyone for his travels to the U.S. During the interview, Fernando provided SCPD with verbal consent (Fernando indicated he could not write his name on the written consent form) to search two cell phones that were on his person. The first cellular phone was a ZTE, Model Z233VL, (SMUGGLER PHONE#1) and the second cellular phone was a white colored, Azumi, L2Z, IMEI# 359295074684575, hereinafter referred to as, "SMUGGLER PHONE#2." Fernando stated that the white phone (SMUGGLER PHONE#2) was given to him by the smuggler while in Mexico. Fernando stated that his Guatemalan phone was taken by the smuggler.

21. On June 19, 2019, while HSI and SCPD were conducting interviews, SCPD executed a state search warrant, issued in the Iowa District Court for Woodbury County, for Cristobal's residence located at 3628 Hamilton Blvd., Sioux City, IA 51104, in regard to the alleged sexual assault investigation. During the interviews, all three subjects claimed they resided at this address. Located at the residence were: (1) Ronald Craig, (Amy's father, a U.S. citizen); (2) Maurilio Juarez-Marcos (Maurilio), a friend of Cristobal and citizen of the Republic of Guatemala), (3) Maurilio's minor son, Wilson Juarez-Bartolo (Wilson), (4) and another minor, Francisco Stevin FRANCISCO-Lucas (Francisco).

22. On June 19, 2019, a consensual and non-custodial interview with Ronald Craig was conducted at 3628 Hamilton Blvd by SCPD and HSI. The interview was audio recorded. Ronald stated that Cristobal and Amy have assisted approximately ten family members and friends of Cristobal with travelling to the U.S. from Guatemala.

Ronald Craig told law enforcement that Cristobal and Amy arrange for the individuals to travel from Guatemala to the U.S. border and that they must bring a child with them. Upon entering the U.S., they must turn themselves in, and if released, then Cristobal and Amy will pay for them to travel by bus or plane to Sioux City, Iowa. In Sioux City, Cristobal and Amy provide them food, lodging, clothes, and obtain them a job. The people smuggled must help pay the rent and food bill while living in the house, and pay back Cristobal and Amy for the traveling costs. Ronald Craig went on to tell law enforcement that Amy paid \$700 to bring ABF and Fernando to the U.S. and made all of the arrangements for them to travel from Guatemala to Sioux City, Iowa.

23. On June 19, 2019, Maurilio Juarez-Marcos voluntarily agreed to be transported by SCPD to the police station to be interviewed. A consensual and non-custodial interview with Maurilio was conducted at the SCPD. The interview was video/audio recorded. Maurilio told law enforcement he was a friend and neighbor of Cristobal in Guatemala, and that Cristobal and Amy assisted him and his child, Wilson, to travel from Guatemala to the U.S. Border. After they crossed the border and were arrested, Maurilio's sister, who he stated is no longer in the U.S., helped them travel from the border to the residence of Cristobal and Amy in Sioux City, Iowa. Maurilio and Wilson stayed with Cristobal and Amy at their residence. Maurilio went on to tell law enforcement he pays Cristobal and Amy for rent, food, and payback for helping him travel to the U.S. Maurilio further told law enforcement that some of Cristobal's friends helped him obtain a job in construction here in the Sioux City area. Maurilio is currently in the U.S. on an Order of Supervision from ERO and must check in on a recurring basis.



24. Following completion of the search warrant at 3628 Hamilton Blvd., Sioux City, IA 51104, HSI Special Agents returned there to interview Juan Francisco-Pedro (Juan) who is the father to the second minor, Francisco, who was encountered during the search warrant of the residence. This was a consensual and non-custodial interview which was audio recorded. Juan was working during the time of the execution of the search warrant at 3628 Hamilton Blvd and had now returned back home. Juan is currently in the U.S. on an Order of Supervision from ERO and must check in on a recurring basis. Juan stated he made all the arrangements to travel to the U.S. on his own, but that Cristobal and Amy allowed him and his son Francisco to stay with Cristobal and Amy at their residence.

25. During the interviews on June 19, 2019 at the SCPD, detectives brought in ABF and conducted a show-up to see if she was able to identify any of the persons being interviewed. ABF identified Cristobal as the alleged rapist and Amy as the person she knew as, "Sofia." SCPD also seized the cell phone Amy had in her possession (AMY's PHONE) and the cell phone that Cristobal had in his possession (CRISTOBAL's PHONE).

26. On June 20, 2019, SCPD served a preservation of records request to Verizon Wireless for the cell phone number of SMUGGLER PHONE#1.

27. On June 20, 2019, HSI received verbal consent from Fernando to search SMUGGLER PHONE#1 and SMUGGLER PHONE#2 that he had voluntarily turned over to the SCPD.

28. On June 20, 2019, HSI obtained SMUGGLER PHONE#1 and SMUGGLER PHONE#2 from the SCPD and then turned them over to an HSI computer



forensic examiner. At this time, a forensic examination of the phone has been unsuccessful. A manual search of SMUGGLER PHONE#1 identified call details located on the phone that show an outgoing call attempt to AMY's PHONE on June 19, 2019 at 8:22 AM. A manual search of SMUGGLER PHONE#2 identified an outbox message sent to SMUGGLER PHONE#1, but did not display date and time information. A missed and received call was identified on SMUGGLER PHONE#2 originating from CRISTOBAL's PHONE, but date and time information is unclear.

29. On June 21, 2019, HSI served a DHS Subpoena to AT&T, Inc., for subscriber and call information for AMY's PHONE and CRISTOBAL's PHONE.

30. On June 26, 2019, HSI received the records from AT&T. The records provided by AT&T identified the subscriber AMY's PHONE and CRISTOBAL's PHONE as being Amy Francisco at 3628 Hamilton BLVD., Sioux City, Iowa. Both phones were activated almost a year ago (July 8, 2018).

31. HSI review of the call records for AMY's PHONE identified the vast majority of calls were to CRISTOBAL's PHONE. There were also calls to Southwest Airlines, American Airlines, Greyhound Bus Lines, AT&T, TracFone, Capital One, and Premier Bank. In addition, there were some international calls to Guatemala.

32. HSI review of the call records for CRISTOBAL's PHONE identified the vast majority of calls were to AMY's PHONE. There were also several international calls to Mexico and Guatemala, and calls to AT&T.

33. On June 24, 2019, HSI obtained Eppley Airfield (Omaha Airport) surveillance video from the airport police. I have reviewed the Omaha airport video surveillance footage captured on May 31, 2019.

34. On May 31, 2019, at approximately 1:14 P.M. a Southwest plane arrives and connects to the jetway bridge. At approximately 1:22 P.M. Fernando and ABF are seen walking on the jetway after debarking the aircraft.

35. At approximately 1:30 P.M. airport surveillance showed Fernando stop to reach into his pants pocket and retrieve a white cell phone. Fernando holds the phone to his ear and appears to be having a conversation. This phone resembles SMUGGLER PHONE#2 that was voluntarily turned over to SCPD by Fernando on June 19, 2019. A review of cellular phone records of CRISTOBAL's PHONE indicate CRISTOBAL's PHONE contacted a Mexican phone number 52-558-698-7602 on May 31, 2019, at approximately 1:30:38 P.M. CST. Airport surveillance showed Cristobal and Fernando meet inside the airport terminal at 1:31:02P.M. CST, and at that time, Cristobal is observed placing an item in his pocket, at the same time Fernando is seen lowering his white cellular phone from his ear. Through my training and experience it is known when people are meeting, it is common for them to make a phone call to discuss their location and for them to hang up from their call once they see the person they are meeting. For this reason I believe it is likely that (SMUGGLER PHONE#2) has Mexican phone number 52-558-7602.

36. A review of Cristobal call detailed records for CRISTOBAL's PHONE number indicates that from May 28, 2019, to June 6, 2019, his phone number contacted the SMUGGLER PHONE#2 number approximately 58 times.

37. On May 28, 2019, at approximately 8:49 P.M. CST (7:49 PM MST), CRISTOBAL's PHONE number called SMUGGLER PHONE#2. ICE records indicated that ABF and Fernando were apprehended by Border Patrol Agents on May 29, 2019,

at approximately 12:15 A.M. MST. This information indicates the SMUGGLER PHONE#2 number and CRISTOBAL's PHONE number were in contact prior to ABF and Fernando's apprehension by Border Patrol Agents.

38. On May 30, 2019, at approximately 5:58 P.M. CST the SMUGGLER PHONE#2 number contacted CRISTOBAL's PHONE number. Southwest Airline booking reservation records show that on May 30, 2019 at 5:36 P.M. (Time zone not listed) Amy Francisco made flight reservations for Fernando and ABF.

39. Based on my training and experience and the facts set forth in this affidavit, there is probable cause to believe that Cristobal Francisco-Nicolas and Amy Francisco knowingly, or in reckless disregard for the fact that Fernando and ABF were aliens without authorization to come to, enter, or reside in the United States, did bring and attempt to bring them into the United States.

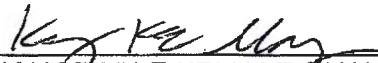
I declare under penalty of perjury that the foregoing facts and circumstances are true and correct to the best of my knowledge and belief.

Respectfully submitted,



John Voeltz  
Special Agent  
ICE - Homeland Security Investigations

Subscribed and sworn to before me on June 28, 2019



HONORABLE KELLY E. MAHONEY  
U.S. Magistrate Judge  
UNITED STATES DISTRICT COURT